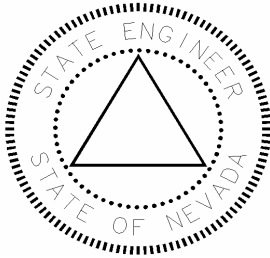


# NEVADA DIVISION OF WATER RESOURCES ANNUAL NEWSLETTER TO LICENSED STATE WATER RIGHT SURVEYORS

May 2007



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## MESSAGE FROM TRACY TAYLOR, STATE ENGINEER

The Division of Water Resources had a banner year in 2006, taking action on 2154 applications and significantly reducing the number of applications in the backlog (more than 1 year old). The Division completed actions on 1059 backlogged applications which is more than two times the average of the previous nine years. The total pending applications at the end of 2006 was 2617, which is the lowest since 1980. This accomplishment came at the same time the Division was seeing a substantial increase in the number of applications filed and the number of applications protested. The number of applications received in 2006 was 1741, while the average number received in the previous nine years was 1312. Over the previous nine years the average number of protested applications was 88; during 2006 this office received protests on 330 applications or a 275% increase.

In addition, the Division increased its productivity in the transfer of title on water rights. There were 3781 Reports of Conveyance confirmed in 2006, which when compared to the 3061 new Reports of Conveyance received reflects a reduction in the backlog. The previous backlog of 2013 Truckee River Reports of Conveyance was eliminated in 2006.

Thanks to the hard work and dedication of the staff of the Division, and through the cooperation and professionalism of all the water right surveyors, 2006 was a very productive and successful year. We would welcome your ideas to help us continue to streamline and make our process more efficient.

Tracy Taylor, PE

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## Website

For access to water resource data, please visit us on the web at <http://water.nv.gov>. The website will allow you to access our permit, well log, water level, and title databases as well as scanned documents such as water right maps, permits, and well logs. The site also provides access to several forms, publications, rulings, as well as a schedule for upcoming hearings.

This past year the division launched its web based mapping application. This application allows users to query water resource data graphically using a map interface. Please visit the site at

<http://webmap.water.nv.gov>. If you have any questions, comments or suggestions regarding the web site, please email David Wooldridge ([dwool@water.nv.gov](mailto:dwool@water.nv.gov)).

### **Avoiding Return-for-Correction**

The Division of Water Resources recently initiated a program to closely monitor the application review process to determine why such a high number of new applications are returned for correction. NRS 533.355 (2) states in part “if upon examination, the application is found to be defective, it must be returned for correction or completion with advice of the reasons therefore.” Each time the Division returns an application for correction, the Division incurs additional time and expense related to second reviews, and the applicant incurs a delay in the decision of this office regarding the application. Everyone would benefit from fewer applications being returned for correction.

Currently, 30% of applications filed are returned for correction. Our study documents numerous defects that result in return for correction; however, just a few defects account for the majority of returns as summarized in the following table:

<b>Defect Resulting in Return for Correction</b>	<b>%</b>
Failure to submit a supporting map	40%
Description of existing POD and/or Place of Use (POU) does not match base right	13%
No surveyed tie and bearing for proposed Point of Diversion (POD)	9%
Proposed POD and/or POU not described within 40-acre subdivisions	9%
Inconsistent information between application and supporting map	7%
Acreage stripped from certificated irrigation right does not match base right	5%
Incorrect or incomplete title block on application and/or map	5%
Basis of Bearing information on map incomplete	2%
Other	10%

Please review the above table to see where you may be able to avoid a return for correction.

Failure to file a supporting map with the application results in the majority of the applications returned for correction (40%). NRS 533.360 directs the State Engineer to publish applications filed in compliance with the statutes within 30 days. In order to meet this deadline, applications are normally processed for review within 1 week of receipt to allow time for typing and checking of the publication notice prior to submission to the newspaper. If a supporting map is not available at the time of review, return for correction is required. Inconsistent and/or incorrect information between an application and the supporting map or between a change application and the base right accounts for 20% of the returns for correction. So, the majority of returns for correction could be avoided if supporting maps were timely submitted and if the applications and supporting maps were carefully proofread prior to submission.

Other issues that were identified during the review process that warrant mention:

- The name of the applicant must be correct and must be consistent between the application and the supporting map. The applicant’s name cannot be amended once the application is filed.
- The applicant’s address on the application must be correct, as this is the address that is used for all notices by this office. When an agent files an application, this office mails a notification of the filing of the application to the applicant within days of the filing, and it

is not uncommon for this initial letter to be returned by the post office due to an incorrect or insufficient address.

- Please insure that the notary stamp on the mylar map is legible. We are seeing a higher incidence of illegible notary stamps due to “bleeding” of the ink or smudging.
- If you are using GPS for the basis of bearing, please include the datum (for example, NAD 83 or NAD 27).
- When referring to an existing map on file in this office to support a new application, please identify the specific map by “filed under” number and type (i.e. Permit 12345, Application map, PBU map, etc). Remember that the map may be “filed under” another application number. With the Permit Database online, you should review an image of the map to make certain that it depicts the needed information.

### **New Policies**

- In the past, this office re-typed each final application, after any amendments and/or corrections were made, to create a legible and consistent quality “Book Record”. The Book Record then became the first portion of the final permit document. This office has initiated a new procedure whereby the application, as amended or corrected, will be scanned “as is”, and the scanned image will become the Book Record. This scanned image will be merged with the permit terms to create the final permit document. So, it is very important that all applications be complete and legible and all corrections done neatly. We are in the process of converting the forms available online to an interactive PDF format that allows the user to enter information directly onto the form and then print and save the document. This will make the online forms much more user friendly.
- Nevada Revised Statutes (NRS) 533.371 provides criteria that this office must use when deciding whether or not to accept a temporary application. Specifically, NRS 533.371 (3) states that the State Engineer shall reject the temporary application and refuse to issue a permit to appropriate water for a specified period if he determines that the proposed use of water is not temporary. When filing a Temporary Application please include a narrative, either under the Remarks section or in a separate letter, which documents the temporary nature of the proposed application.
- Recently, the Division began a project of digitizing the place of use and point of diversion information for water rights throughout the state from existing water right maps. The goal of this project is to allow the public to graphically query the Division’s Water Rights Database using our MapGuide site available at <http://webmap.water.nv.gov>. Water right surveyors interested in helping speed up this project are encouraged to submit an electronic copy of new maps, in addition to the mylar map. Submission of electronic copies is entirely voluntary, and the maps may be submitted on disk or through e-mail to [dwool@water.nv.gov](mailto:dwool@water.nv.gov).

### **What’s in a Name?**

The Deeds Section of the Division of Water Resources processes Reports of Conveyance (ROC) to make title changes on Nevada water rights. Our return rate for deficiencies in ROC submittals has averaged less than 10% since the ROC statute became effective in October 1995. However, some common problems reoccur frequently enough that close attention is necessary to avoid a return for deficiency or the eventual rejection of the entire submittal after a 60 day response period.

Before submitting an ROC, it is always best to check ownership records in the Permits Database. The Ownership/Title page of the Permits Database shows the current holder of record as confirmed by this office. The Titles Database can then be checked to determine if any ROCs have been submitted to this office that are pending confirmation. The Titles Database has the complete list of every deed submittal received since about 1986. The date fields of the Titles Database can be checked to see the confirmation or rejection status of each submittal and the last owner in the submitted chain of title. Each new ROC submittal needs to start with the last owner of record as the beginning point for the new submittal.

The most common omission seems to involve documents deeding property from individual names to a trust. Often, a water right is applied for, or purchased, in individual names. Sometime later, a Trust is created that is funded by deeding the land from individual names to a trust, with no *specific* mention of appurtenant water. If the right is permitted or certificated, the water transfers to the trust name by appurtenance. More often than not, when the trustees act to sell the property by deed, they deed the land to the buyer from the trust without having submitted their funding deed to our office. If the funding document is not submitted to this office, our records will continue to show the water right in individual names. When the buyer goes to submit their purchase deed, having no knowledge that a prior deed existed from the previous individuals to the trust, the buyers have a gap in the chain of title. Changes in trustees often require a copy of the declaration page or a Substitution of Trustee form. This causes a delay in processing requiring a letter of deficiency or phone call to get whatever documents are necessary to complete the chain of title.

Other misconceptions regarding documentation requirements involve business entities, particularly when ownership changes hands, and the documents are not filed in a timely manner--many times the new owner has no knowledge of previous corporate records. Sole proprietorships are one and the same as the individual's names for title purposes. These are for IRS *Schedule C* businesses. Fictitious business name filings like a "dba" can be included as part of the title name but must include the individual names as well, so we know who the authentic holder is when the next transaction takes place.

For many types of mergers, acquisitions, name changes, etc. of "C type" corporations (those with "Inc." as part of their name), documentation of corporate filings needs to be provided from the new holder. The documentation must be from the Secretary of State's office of the state of incorporation. When a corporation dissolves in one state and reincorporates in another or just changes their name, the legal documents are required to be filed along with the ROC forms and fees. As agents, be sure to check with the Nevada Secretary of State office for the proper listing under their website before constructing deeds or making new applications. Variations of even one alpha character can sometimes be construed to be a different business entity. Even title companies often get these details incorrect, but with the information age, it is quite easy to verify online.

### **Help Us, Help You**

The Division is working to streamline many tasks and make all of our processes more efficient. Any recommendation you may have concerning how we can better conduct business would be appreciated. Please feel free to call or e-mail us with any suggestions. For comments on the website and/or online databases, contact David Wooldridge ([dwool@water.nv.gov](mailto:dwool@water.nv.gov)). For other comments, if you are uncertain who to direct your suggestions to, contact Richard Lisle ([rlisle@water.nv.gov](mailto:rlisle@water.nv.gov)) and he will insure that your comment is forwarded to the appropriate staff.